

**Remarks**

The abstract of the disclosure is objected to as allegedly lacking what is the improvement over the state of the art and for being of claim language type format. A replacement abstract is provided in the Amendments to the Specification section herein. The title of the invention is objected to as not being descriptive. A replacement title is provided in the Amendments to the Specification section herein.

Claims 21 – 32 are rejected under 35 U.S.C. 101 as allegedly being directed towards non-statutory subject matter because the claim is toward a computer program and does not define any structural and functional interrelationship between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. Claims 21 - 29 have been amended to recite a computer readable medium containing computer executable instructions to perform a method with various steps of the method recited. Applicants submit that the amendments define structural and functional interrelationship between the computer readable medium containing instructions that perform a method and the method steps. Claims 30 – 32 have been cancelled.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Manjunath et al., US patent 6584438 (hereinafter "Manjunath"). Applicants respectfully disagree. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131.

Although the present invention of claims 1-13 and 21-29 and Manjunath are directed at error mitigation schemes for a speech vocoder, they are fundamentally different in their approach. The claims of the present invention are directed to a speech retransmission scheme in a bandwidth limited environment. To that end, claims 1 and 21 have been amended to clarify that the method of retransmitting a speech packet is performed by a speech transmitting device. In particular, the claims have been amended to recite that a first negative acknowledgement from a receiving communication device indicative of a

corrupted first speech packet transmission is received at a speech transmitting device. Manjunath discloses a method for compensating for a lost packet in the receiver only. It does not address operations performed for error mitigation in the transmitter.

Page 5 of the Office Action cites Manjunath col. 13 lines 62-67 as teaching encoding at a first and second rate. However, in Manjunath, each speech segment is encoded *only once* and transmitted at one of several potential rates. In the present invention of claim 3, the first speech packet is encoded the first time at one encoding rate and transmitted. If retransmission is necessary, the same speech packet (replacement speech packet) is re-encoded at a second rate different from the first rate.

In view of the foregoing remarks, Applicants submit that claims 1, 3 and 21 are in condition for allowance. Applicants further submit that claims 2-13 and 22-29 are allowable by virtue of their dependency on claims 1 and 21, respectively. Applicants request the reconsideration and reexamination of this application and the timely allowance of the pending claims. Please charge any fees associated herewith, including extension of time fees, to 50-2117.

Respectfully submitted,  
Proctor, Lee et al.

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